



General Assembly

January Session, 2007

***Raised Bill No. 1351***

LCO No. 4874

\*04874\_\_\_\_\_INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

***AN ACT CONCERNING VIATICAL SETTLEMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-465 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 As used in sections 38a-465 to 38a-465q, inclusive, and subdivision  
4 (20) of section 38a-816:

5 [(1) "Accredited investor" means an accredited investor, as defined  
6 in 17 CFR Section 230.501(a), as amended from time to time.]

7 [(2)] (1) "Advertising" [or "advertisement"] means any written,  
8 electronic or printed communication or any communication by means  
9 of recorded telephone messages or transmitted on radio, television, the  
10 Internet or similar communications media, including, but not limited  
11 to, film strips, motion pictures and videos, published, disseminated,  
12 circulated or placed before the public, directly or indirectly, for the  
13 purpose of creating an interest in or inducing a person to [purchase or]  
14 sell, devise, request or transfer the death benefit or ownership of a life  
15 insurance policy [or an interest in a life insurance policy] pursuant to a

16 viatical settlement contract. [or a viatical settlement purchase  
17 agreement.]

18 (2) "Business of viatical settlements" means an activity involved in,  
19 but not limited to, the offering, soliciting, negotiating, procuring,  
20 effectuating, purchasing, investing, financing, monitoring, tracking,  
21 underwriting, selling, transferring, assigning, pledging, hypothecating  
22 or, in any other manner, acquiring an interest in a life insurance policy  
23 by means of a viatical settlement contract.

24 (3) "Chronically ill" means: (A) Being unable to perform at least two  
25 activities of daily living, including, but are not limited to, eating,  
26 toileting, transferring, bathing, dressing or continence; (B) requiring  
27 substantial supervision to protect from threats to health and safety due  
28 to severe cognitive impairment; or (C) having a level of disability  
29 similar to that described in subparagraph (A) of this subdivision as  
30 determined by the federal Secretary of Health and Human Services.

31 (4) "Commissioner" means the Insurance Commissioner.

32 (5) (A) "Financing entity" means an underwriter, placement agent,  
33 lender, purchaser of securities, purchaser of a policy or certificate from  
34 a viatical settlement provider, credit enhancer, or any entity that has a  
35 direct ownership in a policy or certificate that is the subject of a viatical  
36 settlement contract, but:

37 (i) Whose principal activity related to the transaction is providing  
38 funds to effect the viatical settlement or purchase of one or more  
39 viaticated policies; and

40 (ii) Who has an agreement in writing with one or more licensed  
41 viatical settlement providers to finance the acquisition of viatical  
42 settlement contracts.

43 (B) Financing entity does not include a nonaccredited investor or  
44 viatical settlement purchaser.

45 [(6) "Financing transaction" means any transaction in which  
46 financing is obtained for the purchase, acquisition, transfer or other  
47 assignment of one or more viatical settlement contracts, viaticated  
48 policies or interests in such contracts or policies, including, but not  
49 limited to, any secured or unsecured financing, any securitization  
50 transaction or any securities offering which is registered or exempt  
51 from registration under federal or state securities law, or in which one  
52 or more viatical settlement contracts, viaticated policies or interests  
53 therein are sold, assigned, transferred, pledged, hypothecated or  
54 otherwise disposed of.]

55 (6) "Fraudulent viatical settlement act includes: (A) Acts or  
56 omissions committed by any person who, knowingly or with intent to  
57 defraud for the purpose of depriving another of property or for  
58 pecuniary gain, commits or permits its employees or its agents to  
59 engage in acts including, but not limited to, presenting, causing to be  
60 presented or preparing with knowledge or belief that it will be  
61 presented to or by a viatical settlement provider, viatical settlement  
62 broker, viatical settlement purchaser, financing entity, insurer,  
63 insurance producer or any other person, false material information, or  
64 concealing material information, as part of, in support of or concerning  
65 a fact material to one or more of the following:

66 (i) An application for the issuance of a viatical settlement contract or  
67 insurance policy;

68 (ii) The underwriting of a viatical settlement contract or insurance  
69 policy;

70 (iii) A claim for payment or benefit pursuant to a viatical settlement  
71 contract or insurance policy;

72 (iv) Premiums paid on an insurance policy;

73 (v) Payments and changes in ownership or beneficiary made in  
74 accordance with the terms of a viatical settlement contract or insurance

75 policy;

76 (vi) The reinstatement or conversion of an insurance policy;

77 (vii) In the solicitation, offer, effectuation or sale of a viatical  
78 settlement contract, insurance policy;

79 (viii) The issuance of written evidence of viatical settlement contract  
80 or insurance;

81 (ix) A financing transaction;

82 (x) Employing any plan, financial structure, device, scheme, or  
83 artifice to defraud related to viaticated policies; and

84 (xi) Failing to disclose to an insurer a plan, transaction or series of  
85 transactions as required;

86 (B) In the furtherance of a fraud or to prevent the detection of a  
87 fraud, any person commits or permits its employees or its agents to  
88 remove, conceal, alter, destroy or sequester from the commissioner the  
89 assets or records of a licensee or other person engaged in the business  
90 of viatical settlements, misrepresent or conceal the financial condition  
91 of a licensee, financing entity, insurer or other person, transact the  
92 business of viatical settlements in violation of laws requiring a license,  
93 certificate of authority or other legal authority for the transaction of the  
94 business of viatical settlements; or file with the commissioner or the  
95 equivalent chief insurance regulatory official of another jurisdiction a  
96 document containing false information or otherwise conceals  
97 information about a material fact from the commissioner;

98 (C) Embezzlement, theft, misappropriation or conversion of  
99 moneys, funds, premiums, credits or other property of a viatical  
100 settlement provider, insurer, insured, viator, insurance policyowner or  
101 any other person engaged in the business of viatical settlements or  
102 insurance;

103     (D) Recklessly entering into, negotiating, brokering, otherwise  
104     dealing in a viatical settlement contract, the subject of which is a life  
105     insurance policy that was obtained by presenting false information  
106     concerning any fact material to the policy or by concealing, for the  
107     purpose of misleading another, information concerning any fact  
108     material to the policy, where the person or the persons intended to  
109     defraud the policy's issuer, the viatical settlement provider or the  
110     viator. For the purposes of this subparagraph, "recklessly" means  
111     engaging in the conduct in conscious and clearly unjustifiable  
112     disregard of a substantial likelihood of the existence of the relevant  
113     facts or risks, such disregard involving a gross deviation from  
114     acceptable standards of conduct;

115     (E) Facilitating the change of state of ownership of a policy or  
116     certificate or the state of residency of a viator to a state or jurisdiction  
117     that does not have a similar law for the express purposes of evading or  
118     avoiding the responsibility; or

119     (F) Attempting to commit, assisting, aiding or abetting in the  
120     commission of, or conspiracy to commit the acts or omissions specified  
121     in this subdivision.

122     (7) "Person" means a natural person or a legal entity, including, but  
123     not limited to, an individual, partnership, limited liability company,  
124     association, trust or corporation.

125     [(8) "Nonaccredited investor" means an investor that does not  
126     qualify as an accredited investor.]

127     (8) "Life insurance producer" means any person licensed in this state  
128     as a resident or nonresident insurance producer who has received  
129     qualification or authority for life insurance coverage or a life line of  
130     coverage pursuant to section 38a-782.

131     (9) "Policy" means an individual or group policy, group certificate,  
132     contract or arrangement of life insurance [affecting the rights of]

133 owned by a resident of the state, [or bearing a reasonable relation to  
134 the state,] regardless of whether delivered or issued for delivery in this  
135 state.

136 (10) "Qualified institutional buyer" means a qualified institutional  
137 buyer, as defined in [17 CFR Section 230.144A] Rule 144 under the  
138 Social Security Act of 1933, as amended from time to time.

139 (11) "Related provider trust" means a titling trust or other trust  
140 established by a licensed viatical settlement provider or a financing  
141 entity for the sole purpose of holding the ownership or beneficial  
142 interest in purchased policies in connection with a financing  
143 transaction. The trust shall have a written agreement with the licensed  
144 viatical settlement provider under which the licensed viatical  
145 settlement provider is responsible for ensuring compliance with all  
146 statutory and regulatory requirements. The trust agrees to make all  
147 records and files related to viatical settlement transactions available to  
148 the commissioner as if said records and files were maintained directly  
149 by the licensed viatical settlement provider.

150 (12) "Special purpose entity" means a corporation, partnership, trust,  
151 limited liability company or other similar entity formed solely to  
152 provide, either directly or indirectly, access to institutional capital  
153 markets (A) for a financing entity or licensed viatical settlement  
154 provider, or (B) in connection with a transaction in which the securities  
155 in the special purposes entity are acquired by the viator or by qualified  
156 institutional buyers, as defined in Rule 144 under the Securities Act of  
157 1933, as amended, or (C) the securities pay a fixed rate of return  
158 commensurate with established asset-backed institutional markets.

159 (13) "Terminally ill" means having an illness or sickness that can  
160 reasonably be expected to result in death in twenty-four months or  
161 less.

162 (14) "Viatical settlement" means a transaction between a viator and a  
163 viatical settlement provider in which the viatical settlement provider

164 pays compensation or other value in return for the viator's assignment,  
165 transfer, sale, devise or bequest to the viatical settlement provider of  
166 the ownership of, or the death benefit payable under, a life insurance  
167 policy or a certificate.

168 (15) "Viatical settlement broker" [or "broker"] means a person,  
169 including a life insurance producer who [,] working exclusively on  
170 behalf of a viator and for a fee, commission or other valuable  
171 consideration, offers or attempts to negotiate viatical settlement  
172 contracts between a viator and one or more viatical settlement  
173 providers. "Viatical settlement broker" does not include an attorney,  
174 certified public accountant or a financial planner accredited by a  
175 nationally recognized accreditation agency who is retained to  
176 represent the viator and whose compensation is not paid directly or  
177 indirectly by the viatical settlement provider or viatical settlement  
178 purchaser.

179 (16) "Viatical settlement contract" means a written agreement  
180 between a viator and a viatical settlement provider or any affiliate of a  
181 viatical settlement provider establishing the terms under which  
182 compensation or anything of value will be paid, which compensation  
183 or value is less than the expected death benefit of a policy in return for  
184 the viator's present or future assignment, transfer, sale, devise or  
185 bequest of the death benefit or ownership of any portion of the  
186 insurance policy or certificate of insurance. A viatical settlement  
187 contract includes, but is not limited to, (A) a [contract for a] premium  
188 finance loan [or other financing transaction with a viator secured  
189 primarily by an individual or group life insurance policy, other than a  
190 loan by a life insurance company pursuant to the terms of the life  
191 insurance contract, or a loan secured by the cash value of a policy, or  
192 (B) an agreement with a viator to transfer ownership or change the  
193 beneficiary designation at a later date regardless of the date that  
194 compensation is paid to the viator] for a life insurance policy by a  
195 lender to viator on, before or after the date of issuance of the policy  
196 where the loan proceeds are not used solely to pay premiums for the

197 policy and the costs of the loan, including, but not limited to, interest,  
198 arrangement fees, utilization fees and similar fees, closing costs, legal  
199 fees and expenses, trustee fees and expenses, and third party collateral  
200 provider fees and expenses, including fees payable to letter of credit  
201 issuers, or (B) the viator or the insured receives on the date of the  
202 premium finance loan a guarantee of a future viatical settlement value  
203 of the policy, or (C) The viator or the insured agrees on the date of the  
204 premium finance loan to sell the policy or any portion of its death  
205 benefit on any date following the issuance of the policy.

206 [(17) "Viatical settlement investment agent" means a person who is  
207 an appointed or contracted agent of a licensed viatical settlement  
208 provider who solicits or arranges the funding for the purchase of a  
209 viatical settlement by a viatical settlement purchaser and who is acting  
210 on behalf of a viatical settlement provider.]

211 (17) "Viatical settlement contract" does not include a policy loan or  
212 accelerated death benefit, a loan made by a bank or other financial  
213 institution on such policy, a loan made by a lender that does not  
214 violate section 38a-167, an agreement where all the parties are closely  
215 related to the insured, any designation by insured to employer, a bona  
216 fide business succession planning arrangement between one or more  
217 shareholders in a corporation, between one or more partners in a  
218 partnership, or between one or more members in a limited liability  
219 company, an agreement entered into by a service recipient, or any  
220 other contract, transaction or arrangement.

221 (18) "Viatical settlement provider" means a person, other than a  
222 viator, who enters into or effectuates a viatical settlement contract.  
223 Viatical settlement provider does not include:

224 (A) A bank, savings bank, savings and loan association, credit union  
225 or other licensed lending institution or premium finance company  
226 making premium finance loans and exempted by the commissioner  
227 from the licensing requirement under premium financing laws, that  
228 takes an assignment of a life insurance policy as collateral for a loan;



229 (B) The issuer of a life insurance policy; [providing accelerated  
230 benefits pursuant to section 38a-457 and pursuant to the contract;]

231 (C) An authorized or eligible insurer that provides stop loss  
232 coverage or financial guarantee insurance to a viatical settlement  
233 provider, viatical settlement purchaser, financing entity, special  
234 purpose entity or related provider trust;

235 (D) A natural person who enters into or effectuates no more than  
236 one agreement in a calendar year for the transfer of a life insurance  
237 policy for any value less than the expected death benefit;

238 (E) A financing entity;

239 (F) A special purpose entity;

240 (G) A related provider trust;

241 (H) A viatical settlement purchaser; or

242 [(I) An accredited investor or qualified institutional buyer who  
243 purchases a viaticated policy from a viatical settlement provider.]

244 (I) Any other person that the commissioner determines is not the  
245 type of person intended to be covered by the definition of "viatical  
246 settlement provider".

247 (19) "Viatical settlement purchase agreement" means a contract or  
248 agreement, entered into by a viatical settlement purchaser, to which  
249 the viator is not a party, to purchase a life insurance policy or an  
250 interest in a life insurance policy, that is entered into for the purpose of  
251 deriving an economic benefit.

252 (20) "Viatical settlement purchaser" means a person who gives a  
253 sum of money as consideration for a life insurance policy or an interest  
254 in the death benefits of a life insurance policy, or a person who owns  
255 or acquires or is entitled to a beneficial interest in a trust that owns a  
256 viatical settlement contract or is the beneficiary of a life insurance

257 policy that has been or will be the subject of a viatical settlement  
258 contract, for the purpose of deriving an economic benefit. Viatical  
259 settlement purchaser does not include:

260 (A) A licensee under this part;

261 (B) An accredited investor or qualified institutional buyer;

262 (C) A financing entity;

263 (D) A special purpose entity; or

264 (E) A related provider trust.

265 (21) "Viaticated policy" means a life insurance policy or certificate  
266 that has been acquired by a viatical settlement provider pursuant to a  
267 viatical settlement contract.

268 (22) "Viator" means the owner of a life insurance policy or a  
269 certificate holder under a group policy who resides in this state and  
270 enters or seeks to enter into a viatical settlement contract. For the  
271 purposes of this part, a viator shall not be limited to an owner of a life  
272 insurance policy or a certificate holder under a group policy insuring  
273 the life of an individual with a terminal or chronic illness or condition  
274 except where specifically provided. If there is more than one viator on  
275 a single policy and the viators are residents of different states, the  
276 transaction shall be governed by the law of the state in which the  
277 viator having the largest percentage of ownership resides or, if the  
278 viators have equal percentage of ownership, the state of residence of  
279 one viator agreed upon in writing by all viators. Viator does not  
280 include:

281 (A) A licensee under this part;

282 (B) An accredited investor or qualified institutional buyer;

283 (C) A financing entity;

284 (D) A special purpose entity; or

285 (E) A related provider trust.

286 Sec. 2. Subsection (a) of section 38a-11 of the general statutes is  
287 repealed and the following is substituted in lieu thereof (*Effective*  
288 *October 1, 2007*):

289 (a) The commissioner shall demand and receive the following fees:  
290 (1) For the annual fee for each license issued to a domestic insurance  
291 company, one hundred dollars; (2) for receiving and filing annual  
292 reports of domestic insurance companies, twenty-five dollars; (3) for  
293 filing all documents prerequisite to the issuance of a license to an  
294 insurance company, one hundred seventy-five dollars, except that the  
295 fee for such filings by any health care center, as defined in section 38a-  
296 175, shall be one thousand one hundred dollars; (4) for filing any  
297 additional paper required by law, fifteen dollars; (5) for each certificate  
298 of valuation, organization, reciprocity or compliance, twenty dollars;  
299 (6) for each certified copy of a license to a company, twenty dollars; (7)  
300 for each certified copy of a report or certificate of condition of a  
301 company to be filed in any other state, twenty dollars; (8) for  
302 amending a certificate of authority, one hundred dollars; (9) for each  
303 license issued to a rating organization, one hundred dollars. In  
304 addition, insurance companies shall pay any fees imposed under  
305 section 12-211; (10) a filing fee of twenty-five dollars for each initial  
306 application for a license made pursuant to section 38a-769; (11) with  
307 respect to insurance agents' appointments: (A) A filing fee of twenty-  
308 five dollars for each request for any agent appointment, except that no  
309 filing fee shall be payable for a request for agent appointment by an  
310 insurance company domiciled in a state or foreign country which does  
311 not require any filing fee for a request for agent appointment for a  
312 Connecticut insurance company; (B) a fee of forty dollars for each  
313 appointment issued to an agent of a domestic insurance company or  
314 for each appointment continued; and (C) a fee of twenty dollars for  
315 each appointment issued to an agent of any other insurance company

316 or for each appointment continued, except that no fee shall be payable  
317 for an appointment issued to an agent of an insurance company  
318 domiciled in a state or foreign country which does not require any fee  
319 for an appointment issued to an agent of a Connecticut insurance  
320 company; (12) with respect to insurance producers: (A) An  
321 examination fee of seven dollars for each examination taken, except  
322 when a testing service is used, the testing service shall pay a fee of  
323 seven dollars to the commissioner for each examination taken by an  
324 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of  
325 forty dollars per year, or any portion thereof, for each license renewed;  
326 and (D) a fee of forty dollars for any license renewed under the  
327 transitional process established in section 38a-784; (13) with respect to  
328 public adjusters: (A) An examination fee of seven dollars for each  
329 examination taken, except when a testing service is used, the testing  
330 service shall pay a fee of seven dollars to the commissioner for each  
331 examination taken by an applicant; and (B) a fee of one hundred  
332 twenty-five dollars for each license issued or renewed; (14) with  
333 respect to casualty adjusters: (A) An examination fee of ten dollars for  
334 each examination taken, except when a testing service is used, the  
335 testing service shall pay a fee of ten dollars to the commissioner for  
336 each examination taken by an applicant; (B) a fee of forty dollars for  
337 each license issued or renewed; and (C) the expense of any  
338 examination administered outside the state shall be the responsibility  
339 of the entity making the request and such entity shall pay to the  
340 commissioner one hundred dollars for such examination and the  
341 actual traveling expenses of the examination administrator to  
342 administer such examination; (15) with respect to motor vehicle  
343 physical damage appraisers: (A) An examination fee of forty dollars  
344 for each examination taken, except when a testing service is used, the  
345 testing service shall pay a fee of forty dollars to the commissioner for  
346 each examination taken by an applicant; (B) a fee of forty dollars for  
347 each license issued or renewed; and (C) the expense of any  
348 examination administered outside the state shall be the responsibility  
349 of the entity making the request and such entity shall pay to the

350 commissioner one hundred dollars for such examination and the  
351 actual traveling expenses of the examination administrator to  
352 administer such examination; (16) with respect to certified insurance  
353 consultants: (A) An examination fee of thirteen dollars for each  
354 examination taken, except when a testing service is used, the testing  
355 service shall pay a fee of thirteen dollars to the commissioner for each  
356 examination taken by an applicant; (B) a fee of two hundred dollars for  
357 each license issued; and (C) a fee of one hundred twenty-five dollars  
358 for each license renewed; (17) with respect to surplus lines brokers: (A)  
359 An examination fee of ten dollars for each examination taken, except  
360 when a testing service is used, the testing service shall pay a fee of ten  
361 dollars to the commissioner for each examination taken by an  
362 applicant; and (B) a fee of five hundred dollars for each license issued  
363 or renewed; (18) with respect to fraternal agents, a fee of forty dollars  
364 for each license issued or renewed; (19) a fee of thirteen dollars for  
365 each license certificate requested, whether or not a license has been  
366 issued; (20) with respect to domestic and foreign benefit societies shall  
367 pay: (A) For service of process, twenty-five dollars for each person or  
368 insurer to be served; (B) for filing a certified copy of its charter or  
369 articles of association, five dollars; (C) for filing the annual report, ten  
370 dollars; and (D) for filing any additional paper required by law, three  
371 dollars; (21) with respect to foreign benefit societies: (A) For each  
372 certificate of organization or compliance, four dollars; (B) for each  
373 certified copy of permit, two dollars; and (C) for each copy of a report  
374 or certificate of condition of a society to be filed in any other state, four  
375 dollars; (22) with respect to reinsurance intermediaries: A fee of five  
376 hundred dollars for each license issued or renewed; (23) with respect  
377 to viatical settlement providers: (A) A filing fee of thirteen dollars for  
378 each initial application for a license made pursuant to section 38a-465a,  
379 as amended by this act; and (B) a fee of twenty dollars for each license  
380 issued or renewed; (24) with respect to viatical settlement brokers: (A)  
381 A filing fee of thirteen dollars for each initial application for a license  
382 made pursuant to section 38a-465a , as amended by this act; and (B) a  
383 fee of twenty dollars for each license issued or renewed; (25) [with

384 respect to viatical settlement investment agents: (A) A filing fee of  
385 thirteen dollars for each initial application for a license made pursuant  
386 to section 38a-465a; and (B) a fee of twenty dollars for each license  
387 issued or renewed; (26)] with respect to preferred provider networks, a  
388 fee of two thousand five hundred dollars for each license issued or  
389 renewed; [(27)] (26) with respect to rental companies, as defined in  
390 section 38a-799, a fee of forty dollars for each permit issued or  
391 renewed; [(28)] (27) with respect to medical discount plan  
392 organizations licensed under section 38a-479rr, a fee of five hundred  
393 dollars for each license issued or renewed; and [(29)] (28) with respect  
394 to each duplicate license issued a fee of twenty-five dollars for each  
395 license issued.

396 Sec. 3. Subsection (a) of 38a-25 of the general statutes is repealed and  
397 the following is substituted in lieu thereof (*Effective October 1, 2007*):

398 (a) The Insurance Commissioner is the agent for receipt of service of  
399 legal process on the following:

400 (1) Foreign and alien insurance companies authorized to do  
401 business in this state in any proceeding arising from or related to any  
402 transaction having a connection with this state.

403 (2) Fraternal benefit societies authorized to do business in this state.

404 (3) Insurance-support organizations as defined in section 38a-976,  
405 transacting business outside this state which affects a resident of this  
406 state.

407 (4) Risk retention groups, as defined in section 38a-250.

408 (5) Purchasing groups designating the Insurance Commissioner as  
409 agent for receipt of service of process pursuant to section 38a-261.

410 (6) Eligible surplus lines insurers authorized by the commissioner to  
411 accept surplus lines insurance.

412 (7) Except as provided by section 38a-273, unauthorized insurers or  
413 other persons assisting unauthorized insurers who directly or  
414 indirectly do any of the acts of insurance business as set forth in  
415 subsection (a) of section 38a-271.

416 (8) The Connecticut Insurance Guaranty Association and the  
417 Connecticut Life and Health Insurance Guaranty Association.

418 (9) Insurance companies designating the Insurance Commissioner  
419 as agent for receipt of service of process pursuant to subsection (g) of  
420 section 38a-85.

421 (10) Nonresident insurance producers and nonresident surplus lines  
422 brokers licensed by the Insurance Commissioner.

423 (11) Viatical settlement providers [,] and viatical settlement brokers,  
424 [and viatical settlement investment agents] licensed by the  
425 commissioner.

426 (12) Nonresident reinsurance intermediaries designating the  
427 commissioner as agent for receipt of service of process pursuant to  
428 section 38a-760b.

429 (13) Workers' compensation self-insurance groups, as defined in  
430 section 38a-1001.

431 (14) Persons alleged to have violated any provision of section 38a-  
432 130.

433 (15) Captive insurers, as defined in section 38a-91k.

434 Sec. 4. Section 38a-465a of the general statutes is repealed and the  
435 following is substituted in lieu thereof (*Effective October 1, 2007*):

436 (a) Except as otherwise provided in this part, no person may act as a  
437 viatical settlement provider [,] or viatical settlement broker [or viatical  
438 settlement investment agent] until the person is licensed by the  
439 commissioner pursuant to this section, except that any person who

440 holds a resident or nonresident insurance producer license pursuant to  
441 chapter 702 may act as a viatical settlement broker, and shall be subject  
442 to the provisions of subsection (a) of section 38a-11, sections 38a-465 to  
443 38a-465q, inclusive, as amended by this act, and subdivision (20) of  
444 section 38a-816, as if such person is a licensed viatical settlement  
445 broker.

446 (b) Any applicant for a license as a viatical settlement provider [.] or  
447 viatical settlement broker [or viatical settlement investment agent]  
448 shall submit written application to the commissioner. Such applicants  
449 shall provide such information as the commissioner requires. All initial  
450 applications shall be accompanied by a filing fee specified in section  
451 38a-11.

452 (c) Upon the filing of an application and full payment of the license  
453 fee, the commissioner shall investigate the applicant and shall issue a  
454 license if the commissioner determines that:

455 (1) The applicant has provided a detailed plan of operation;

456 (2) The applicant is competent and trustworthy, and intends to act  
457 in good faith pursuant to the license applied for;

458 (3) The applicant has a good business reputation and adequate  
459 experience, training or education so as to be qualified in the business  
460 for which the license is applied for;

461 (4) If the applicant is a corporation, partnership, limited liability  
462 company or other legal entity, the applicant has provided a certificate  
463 of good standing from its state of domicile and, if such applicant is not  
464 domiciled in this state, a certificate of good standing from this state  
465 dated not more than fifteen days before or after the date of filing of the  
466 application; and

467 (5) Neither the applicant, nor any partner, key manager, director,  
468 officer or majority stockholder of the applicant has been convicted of a  
469 felony.



470 (d) Any license issued for a viatical settlement provider [.] or a  
471 viatical settlement broker [or a viatical settlement investment agent]  
472 shall be in force only until the last day of March in each year, but may  
473 be renewed by the commissioner without formality other than proper  
474 application. The fees for such licenses shall be assessed annually as  
475 provided in section 38a-11. If such broker, provider or investment  
476 agent fails to timely pay the renewal fee, such license shall be  
477 automatically revoked if the license fee is not received by the  
478 commissioner not later than the fifth day after the commissioner sends  
479 by first class mail a written notice of nonrenewal to the principal office  
480 of the broker, provider or investment agent, provided such notice may  
481 only be mailed after said last day of March.

482 (e) The commissioner may, at any time, require the applicant to  
483 fully disclose the identity of all of its stockholders, partners, key  
484 management personnel, directors, officers, members and employees,  
485 and the commissioner may deny any application for a license if the  
486 commissioner determines that any partner, key manager, director,  
487 officer, employee stockholder or member thereof who may materially  
488 influence the applicant's conduct fails to meet any of the standards set  
489 forth in sections 38a-465 to 38a-465q, inclusive, as amended by this act.

490 (f) A viatical settlement provider [.] or viatical settlement broker [or  
491 viatical settlement investment agent] shall provide to the  
492 commissioner new or revised information about officers, stockholders  
493 holding ten per cent or more of the company's stock, partners,  
494 directors, members or designated employees not later than thirty days  
495 after the change in information.

496 (g) A viatical settlement provider license [.] or a viatical settlement  
497 broker license [or a viatical settlement investment agent license] issued  
498 to a corporation, partnership, limited liability company or other legal  
499 entity authorizes all of such legal entity's stockholders, partners, key  
500 managers, directors, officers and employees named in the application  
501 for such license, and any supplements to the application, to act on such

502 entity's behalf as if such individuals are licensed. Such authorization  
503 shall terminate upon the expiration, suspension or revocation of the  
504 viatical settlement provider license [.] or a viatical settlement broker  
505 license. [or a viatical settlement investment agent license.]

506 (h) The commissioner shall maintain a complete listing of all viatical  
507 settlement providers [.] and viatical settlement brokers [and viatical  
508 settlement investment agents] licensed in this state which shall be  
509 available to the general public for inspection.

510 Sec. 5. Section 38a-465b of the general statutes is repealed and the  
511 following is substituted in lieu thereof (*Effective October 1, 2007*):

512 (a) The commissioner may deny a license application, or suspend,  
513 revoke or refuse to renew the license of any viatical settlement  
514 provider [.] or viatical settlement broker [or viatical settlement  
515 investment agent] if the commissioner determines that:

516 (1) There was a material misrepresentation in the license application  
517 or in other information submitted to the commissioner;

518 (2) The licensee, or any partner, key manager, director, officer or  
519 majority stockholder of the licensee has been convicted of a felony, is  
520 subject to a final administrative action to suspend or revoke a license  
521 granted by the chief insurance regulatory official of another state, or is  
522 otherwise shown to be untrustworthy or incompetent to act as a  
523 viatical settlement provider [.] or viatical settlement broker; [or viatical  
524 settlement investment agent;]

525 (3) The licensee has wilfully violated any of the provisions of this  
526 part;

527 (4) The viatical settlement provider demonstrates a pattern of  
528 unreasonably low payments to viators;

529 (5) The licensee has been found guilty of or has pleaded guilty or  
530 nolo contendere to, any felony, or to a misdemeanor involving fraud or

531 moral turpitude regardless of whether a judgment or conviction has  
532 been entered by the court;

533 (6) The viatical settlement provider has entered into any viatical  
534 settlement contract that has not been approved pursuant to sections  
535 38a-465 to 38a-465q, inclusive, as amended by this act;

536 (7) The viatical settlement provider has failed to honor contractual  
537 obligations set out in a viatical settlement contract or a viatical  
538 settlement purchase agreement;

539 (8) The licensee no longer meets the requirements for initial  
540 licensure; or

541 (9) The viatical settlement provider has assigned, transferred or  
542 pledged a viatical policy to a person other than a viatical settlement  
543 provider licensed in this state, a viatical settlement purchaser, an  
544 accredited investor, a qualified institutional buyer, a financing entity,  
545 special purpose entity or related provider trust.

546 (b) If the commissioner denies a license application, or suspends,  
547 revokes or refuses to renew the license of a viatical settlement provider  
548 [ ] or viatical settlement broker [or viatical settlement investment  
549 agent,] the applicant or licensee aggrieved by such denial, suspension,  
550 revocation or refusal to renew a license may appeal such action in  
551 accordance with chapter 54. Hearings may be held by the  
552 commissioner or by any person designated by the commissioner.  
553 Whenever an individual other than the commissioner acts as the  
554 hearing officer, the individual shall submit to the commissioner a  
555 memorandum of findings and recommendations upon which the  
556 commissioner may base a decision.

557 (c) In addition to denying a license application, or suspending,  
558 revoking or refusing to renew a license, the commissioner may assess a  
559 fine of up to one thousand dollars against a viatical settlement  
560 provider [or viatical settlement investment agent] for each wilful

561 violation by the viatical settlement provider of any provision of this  
562 part or regulations adopted pursuant to this part.

563 (d) In addition to denying a license application, or suspending,  
564 revoking or refusing to renew a license, the commissioner may assess a  
565 fine of up to one thousand dollars against a viatical settlement broker  
566 if:

567 (1) Such viatical settlement broker has knowingly received a  
568 commission or other payment or benefit from a viatical settlement  
569 provider who is unlicensed in this state in connection with a viatical  
570 settlement contract entered into with a viator resident in this state;

571 (2) Such viatical settlement broker has defrauded, misled or  
572 mistreated viators; or

573 (3) Such viatical settlement broker has wilfully violated any  
574 provision of sections 38a-465 to 38a-465q, inclusive, as amended by  
575 this act, or regulations adopted pursuant to said sections.

576 Sec. 6. Subsection (c) of section 38a-465d of the general statutes is  
577 repealed and the following is substituted in lieu thereof (*Effective*  
578 *October 1, 2007*):

579 (c) Except as otherwise required or permitted by law, no person,  
580 including, but not limited to, any viatical settlement provider, [viatical  
581 settlement investment agent,] viatical settlement broker, insurance  
582 company, insurance producer, information bureau, rating agency or  
583 company, or any other person with actual knowledge of an insured's  
584 identity, may disclose such identity to any other person unless such  
585 disclosure: (1) Is necessary to effect a viatical settlement between the  
586 viator and a viatical settlement provider and the viator has provided  
587 prior written consent to such disclosure; (2) is provided in response to  
588 an investigation by the commissioner or any other governmental office  
589 or agency; (3) is necessary to effect a viatical settlement purchase  
590 agreement between the viatical settlement purchaser and a viatical

591 settlement provider and the viator and insured have provided prior  
592 written consent to the disclosure; (4) is a term of or condition to the  
593 transfer of a policy by one viatical settlement provider to another  
594 viatical settlement provider; (5) is necessary to permit a financing  
595 entity, related provider trust or special purpose entity to finance the  
596 purchase of policies by a viatical settlement provider and the viator  
597 and insured have provided prior written consent to the disclosure; (6)  
598 is necessary to allow the viatical settlement provider or viatical  
599 settlement broker or their authorized representatives to make contacts  
600 for the purpose of determining health status; or (7) is required to  
601 purchase stop loss coverage.

602 Sec. 7. Section 38a-465f of the general statutes is repealed and the  
603 following is substituted in lieu thereof (*Effective October 1, 2007*):

604 (a) With each application for a viatical settlement, a viatical  
605 settlement provider or viatical settlement broker shall provide the  
606 viator with at least the following disclosures not later than at the time  
607 the application for the viatical settlement contract is signed by all  
608 parties. Disclosure to a viator shall include distribution of a brochure  
609 developed or authorized by the commissioner describing the process  
610 of viatical settlements. The disclosure document shall contain the  
611 following language: "All medical, financial or personal information  
612 solicited or obtained by a viatical settlement provider or viatical  
613 settlement broker about an insured, including the insured's identity or  
614 the identity of family members, a spouse or a significant other may be  
615 disclosed as necessary to effect the viatical settlement between the  
616 viator and the viatical settlement provider. If you are asked to provide  
617 this information, you will be asked to consent to the disclosure. The  
618 information may be provided to someone who buys the policy or  
619 provides funds for the purchase. You may be asked to renew your  
620 permission to share information every two years." The disclosure shall  
621 be provided in a separate document that is signed by the viator and  
622 the viatical settlement provider or viatical settlement broker and shall  
623 provide at least the following disclosures:

624 (1) There are possible alternatives to viatical settlement contracts  
625 including any accelerated death benefits or policy loans offered under  
626 the viator's life insurance policy;

627 (2) Some or all of the proceeds of the viatical settlement may be  
628 taxable under federal income tax, and assistance should be sought  
629 from a professional tax advisor;

630 (3) Receipt of the viatical settlement proceeds may adversely affect  
631 the viator's eligibility for Medicaid or other government benefits or  
632 entitlements, and advice should be obtained from the appropriate  
633 governmental agencies or advisors;

634 (4) The viatical settlement provider may assign or otherwise transfer  
635 its interests in the viaticated policy to a third party;

636 (5) The viator has the right to rescind a viatical settlement contract  
637 for fifteen calendar days after the receipt of the viatical settlement  
638 proceeds by the viator, as provided in subsection (c) of section 38a-  
639 465g. If the insured dies during the rescission period, the settlement  
640 contract shall be deemed to have been rescinded, subject to repayment  
641 of all viatical settlement proceeds and any premiums, loans and loan  
642 interest to the viatical settlement provider or viatical settlement  
643 purchaser;

644 (6) Proceeds of the viatical settlement may be subject to the claims of  
645 general creditors;

646 (7) Funds will be sent to the viator within two business days after  
647 the viatical settlement provider has received the insurer or group  
648 administrator's acknowledgment that ownership of the viatical policy  
649 or interest in the certificate has been transferred and the beneficiary  
650 has been designated pursuant to sections 38a-465 to 38a-465q,  
651 inclusive, as amended by this act;

652 (8) Entering into the viatical settlement contract may cause other  
653 rights or benefits, including conversion rights and waiver of premium

654 benefits that may exist under the policy or certificate, to be forfeited by  
655 the viator and that assistance should be sought from a financial  
656 advisor;

657 (9) The insured may be contacted by either the viatical settlement  
658 provider or broker or its authorized representative for the purpose of  
659 determining the insured's health status. This contact is limited to once  
660 every three months following the date the viatical settlement proceeds  
661 are released to the viator if the insured has a life expectancy of more  
662 than one year, and no more than once per month following such date if  
663 the insured has a life expectancy of one year or less.

664 (b) A viatical settlement provider shall provide the viator with at  
665 least the following disclosures not later than the date the viatical  
666 settlement contract is signed by all parties. The disclosures shall be  
667 conspicuously displayed in the viatical settlement contract or in a  
668 separate document signed by the viator and the viatical settlement  
669 provider or viatical settlement broker, and shall provide at least the  
670 following disclosures:

671 (1) The affiliation, if any, between the viatical settlement provider  
672 and the issuer of the insurance policy to be viaticated;

673 (2) The name, address and telephone number of the viatical  
674 settlement provider;

675 (3) If an insurance policy to be viaticated has been issued as a joint  
676 policy or involves family riders or any coverage of a life other than the  
677 insured under the policy to be viaticated, the viator shall be informed  
678 of the possible loss of coverage on the other lives under the policy and  
679 shall be advised to consult with the viator's insurance producer or the  
680 insurer issuing the policy for advice on the proposed viatical  
681 settlement;

682 (4) The dollar amount of the current death benefit payable to the  
683 viatical settlement provider under the policy or certificate. If known,

684 the viatical settlement provider shall also disclose the availability of  
685 any additional guaranteed insurance benefits, the dollar amount of any  
686 accidental death and dismemberment benefits under the policy or  
687 certificate and the viatical settlement provider's interest in those  
688 benefits;

689 (5) The name, business address, and telephone number of the  
690 independent third party escrow agent, and the fact that the viator or  
691 owner may inspect or receive copies of the relevant escrow or trust  
692 agreements or documents.

693 (c) If the viatical settlement provider transfers ownership or changes  
694 the beneficiary of the insurance policy, the viatical settlement provider  
695 shall communicate the change in ownership or beneficiary to the  
696 insured not later than twenty days after the change.

697 (d) A viatical settlement provider [or its viatical settlement  
698 investment agent] shall provide the viatical settlement purchaser with  
699 at least the following disclosures prior to the date the viatical  
700 settlement purchase agreement is signed by all parties. The disclosures  
701 shall be conspicuously displayed in any viatical settlement purchase  
702 agreement or in a separate document signed by the viatical settlement  
703 purchaser and viatical settlement provider [or viatical settlement  
704 investment agent] and shall provide at least the following disclosures:

705 (1) The purchaser will receive no returns, including, but not limited  
706 to, dividends and interest, until the insured dies;

707 (2) The actual annual rate of return on a viatical settlement contract  
708 is dependent upon an accurate projection of the insured's life  
709 expectancy, and the actual date of the insured's death. An annual  
710 guaranteed rate of return is not determinable;

711 (3) The viaticated life insurance contract should not be considered a  
712 liquid purchase because it is impossible to predict the exact timing of  
713 the contract's maturity and the funds may not be available until the



714 death of the insured. There is no established secondary market for  
715 resale of these contracts by the purchaser;

716 (4) The purchaser may lose all benefits or may receive substantially  
717 reduced benefits if the insurer goes out of business during the term of  
718 the viatical investment;

719 (5) The purchaser is responsible for payment of the insurance  
720 premium or other costs related to the policy if required by the terms of  
721 the viatical settlement purchase agreement. Such payments may  
722 reduce the purchaser's return. If a party other than the purchaser is  
723 responsible for the payment, the name and address of that party shall  
724 be disclosed;

725 (6) The purchaser is responsible for payment of the insurance  
726 premiums or other costs related to the policy if the insured returns to  
727 good health. The amount of such premiums shall be disclosed, if  
728 applicable;

729 (7) The name and address of any person providing escrow services  
730 and the person's relationship to the broker;

731 (8) The amount of any trust fees or other expenses to be charged to  
732 the viatical settlement purchaser;

733 (9) Whether the purchaser is entitled to a refund of all or part of the  
734 purchaser's investment under the viatical settlement contract if the  
735 policy is later determined to be null and void;

736 (10) That group policies may contain limitations or caps in the  
737 conversion rights, additional premiums may be required to be paid if  
738 the policy is converted, the party responsible for the payment of the  
739 additional premiums shall be named and, if a group policy is  
740 terminated and replaced by another group policy, that there may be no  
741 right to convert the original coverage;

742 (11) The risks associated with policy contestability, including, but

743 not limited to, the risk that the purchaser will have no claim or only a  
744 partial claim to death benefits if the insurer rescinds the policy within  
745 the contestability period;

746 (12) Whether the purchaser will be the owner of the policy in  
747 addition to being the beneficiary, and if the purchaser is the  
748 beneficiary only and not also the owner, the special risks associated  
749 with that status, including, but not limited to, the risk that the  
750 beneficiary may be changed or the premium may not be paid;

751 (13) (A) The experience and qualifications of the person who  
752 determines the life expectancy of the insured, such as in-house staff,  
753 independent physicians and specialty firms that weigh medical and  
754 actuarial data; (B) the information the determination of life expectancy  
755 is based on; and (C) the relationship of the person making the  
756 determination to the viatical settlement provider, if any;

757 (14) Disclosure to an investor shall include distribution of a  
758 brochure, developed or authorized by the commissioner, describing  
759 the process of investment in viatical settlements.

760 (e) A viatical settlement provider [or its viatical settlement  
761 investment agent] shall provide the viatical settlement purchaser with  
762 at least the following disclosures not later than at the time of the  
763 assignment, transfer or sale of all or a portion of an insurance policy.  
764 The disclosures shall be contained in a document signed by the viatical  
765 settlement purchaser and viatical settlement provider [or viatical  
766 settlement investment agent] and shall provide at least the following  
767 disclosures:

768 (1) All life expectancy certifications obtained by the provider in the  
769 process of determining the price paid to the viator;

770 (2) Whether premium payments or other costs related to the policy  
771 have been escrowed. If such costs have been escrowed, disclosure is  
772 required regarding the date upon which the escrowed funds will be

773 depleted and whether the purchaser will be responsible for payment of  
774 premiums after that date, and, if so, the amount of the premiums;

775 (3) Whether premium payments or other costs related to the policy  
776 have been waived. If such costs have been waived, disclosure is  
777 required regarding whether the investor will be responsible for  
778 payment of the premiums if the insurer that wrote the policy  
779 terminates the waiver after purchase and the amount of those  
780 premiums;

781 (4) The type of policy offered or sold, such as, whole life, term life,  
782 universal life or a group policy certificate, any additional benefits  
783 contained in the policy, and the current status of the policy;

784 (5) If the policy is term insurance, the special risks associated with  
785 term insurance, including, but not limited to, the purchaser's  
786 responsibility for additional premiums if the viator continues the term  
787 policy at the end of the current term;

788 (6) Whether the policy is contestable;

789 (7) Whether the insurer that wrote the policy has any additional  
790 rights that could negatively affect or extinguish the purchaser's rights  
791 under the viatical settlement contract, what the rights are, and under  
792 what conditions the rights are activated;

793 (8) The name and address of the person responsible for monitoring  
794 the insured's condition, a description of how often the monitoring of  
795 the insured's condition is done, how the date of death is determined,  
796 and how and when this information will be transmitted to the  
797 purchaser.

798 (f) The viatical settlement purchase agreement may be voided by the  
799 purchaser at any time before the end of the third day after the  
800 disclosures required by subsections (d) and (e) of this section are  
801 received by the purchaser.

802       Sec. 8. Section 38a-465m of the general statutes is repealed and the  
803       following is substituted in lieu thereof (*Effective October 1, 2007*):

804       (a) The commissioner may adopt regulations, in accordance with the  
805       provisions of chapter 54, to implement the provisions of sections  
806       38a-465 to 38a-465l, inclusive, as amended by this act, and sections 38a-  
807       465n to 38a-465q, inclusive, as amended by this act.

808       (b) Such regulations may establish standards for evaluating  
809       reasonableness of payments under viatical settlement contracts for  
810       persons who are terminally or chronically ill. Such regulations may  
811       include, but are not limited to, the regulation of discount rates used to  
812       determine the amount paid in exchange for assignment, transfer, sale,  
813       devise or bequest of a benefit under a life insurance policy.

814       (c) Such regulations may establish appropriate licensing  
815       requirements and standards for continued licensure for viatical  
816       settlement providers [,] and viatical settlement brokers, [and viatical  
817       settlement investment agents.]

818       (d) The commissioner may require a bond or other mechanism for  
819       financial accountability for viatical settlement providers and brokers.

820       (e) Such regulations may adopt rules governing the relationship and  
821       responsibilities of both insurers and viatical settlement providers [,]  
822       and viatical settlement brokers [and viatical settlement investment  
823       agents] during the viatication of a life insurance policy or certificate.

824       Sec. 9. Section 38a-465p of the general statutes is repealed. (*Effective*  
825       *October 1, 2007*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	38a-465
Sec. 2	<i>October 1, 2007</i>	38a-11(a)
Sec. 3	<i>October 1, 2007</i>	38a-25(a)

Sec. 4	<i>October 1, 2007</i>	38a-465a
Sec. 5	<i>October 1, 2007</i>	38a-465b
Sec. 6	<i>October 1, 2007</i>	38a-465d(c)
Sec. 7	<i>October 1, 2007</i>	38a-465f
Sec. 8	<i>October 1, 2007</i>	38a-465m
Sec. 9	<i>October 1, 2007</i>	Repealer section

***Statement of Purpose:***

To make certain definitional changes and make conforming changes to the viatical settlement statutes.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*